

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 05-03095-01-CR-S-RED
)	
ROBERT LEE CAVINS, JR.,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Pending before the Court is defendant's pro se Challenge to Jurisdiction and Motion to Dismiss for Want of Territorial Jurisdiction. Defendant asserts that he is not subject to the laws of the United States; that the Court lacks jurisdiction because he has not been arrested; that the Court lacks jurisdiction because there is no allegation that the crime occurred within a federal enclave, and that he is not a person within the meaning of the Internal Revenue Service Code.

Defendant's arguments are clearly meritless. The defendant is charged in an indictment alleging a violation of § 7201, Title 26, United States Code. The United States District Court therefore has subject matter jurisdiction under the provisions of 18 U.S.C. §3231; *United States v. Watson*, 1 F.3d 733, 734 (8th Cir. 1993). While the defendant claims he has expatriated himself, there is nothing in the record to establish that he has complied with the statutory requirements of terminating United States' citizenship. See 8 U.S.C. §§ 1481-89.

26 U.S.C. § 7701(a)(1) states that "the term person shall be construed to mean an individual..." Defendant's claim that he is not a person within the meaning of the Internal Revenue Service Code is without merit.

Finally, the allegation the Court lacks jurisdiction because he was not arrested is also without merit. Defendant was arrested on July 13, 2005, after an indictment was returned on July 8, 2005. He appeared in Court and was released on a bond on the date of his arrest.

For the reasons stated herein, it is

RECOMMENDED that defendant's jurisdictional challenges and Motion to Dismiss for Want of Territorial Jurisdiction be denied.

/s/ James C. England
JAMES C. ENGLAND, CHIEF
UNITED STATES MAGISTRATE JUDGE

Date: February 10, 2006